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Security Council Committee established pursuant to resolution 1540 (2004)

Note verbale dated 28 October 2004 from the Permanent Mission of the Republic of the Philippines to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the Republic of the Philippines to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1540 (2004), and has the honour to transmit herewith the national report of the Government of the Republic of the Philippines in accordance with paragraph 4 of resolution 1540 (2004) (see annex).

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Annex to the note verbale dated 28 October 2004 from the Permanent Mission of the Republic of the Philippines to the United Nations addressed to the Chairman of the Committee

Initial Report of the Republic of the Philippines On Measures taken in Implementation of Security Council Resolution 1540 (2004)

Operative Paragraph 1

Decides that all States shall refrain from providing any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery

The Philippines recognizes that every State is, by reason of its membership in the family of nations, bound by the generally accepted principles of international law. Under the incorporation clause of the Philippine Constitution, it is declared that: *"The Philippines renounces war as an instrument of national policy, adopts the generally accepted principles of international law as part of the law of the land, and adheres to the policy of peace, equality, justice, freedom, cooperation and amity with all nations."*

In consonance with this national policy and for the promotion of international peace and security, the Philippines adopted and further declared under Article II Section 8 of the Constitution: *"The Philippines, consistent with the national interest, adopts and pursues a policy of freedom from nuclear weapons in its territory"*

Operative Paragraph 2

Decides also that all States, in accordance with their national procedures, shall adopt and enforce appropriate effective laws which prohibit any non-state actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery, in particular for terrorist purposes, as well as attempts to engage in any of the foregoing activities, participate in them as an accomplice, assist or finance them

The Philippines is an active international player in addressing the threat of terrorism. The Philippine government has embarked on strengthening the institutional capacity of the country to deal with this crime. Among relevant measures taken are:

a. 16-Point Counter-Terrorism Program – National Plan

President Gloria Macapagal-Arroyo has issued Memorandum Order No. 37 on 12 October 2001, outlining the fourteen pillars of policy and action of the government

against terrorism. This National Plan of Action prescribes the national framework, strategies and operational concepts to address terrorism and measures to be undertaken to protect the people, restore government services and provide emergency relief to affected individuals and communities. It aims to ensure consistency in the formulation and implementation of national policies, plans and programs that addresses terrorism and its consequences; and to direct, assign roles and define the responsibilities of concerned government departments/agencies, NGOs and civil society in order to enhance inter-operability and synchronization of activities.

This has been expanded to a 16-Point Counter-Terrorism Program. It now includes measures to ensure accountability of local and national government in cleaning the government of terrorists and criminal coddlers, and special community development projects in areas where extreme poverty make its residents vulnerable to the courtship of terrorist groups.

Enclosed, as Annex A, are copies of Memorandum Order No. 37 and Memorandum dated 30 March 2003.

b. *Administrative Order No. 68 dated 8 April 2003*

This Order institutionalized the Counter-Terrorism Intelligence Center (CTIC). The CTIC is tasked to provide overall coordination in the conduct of intelligence operations to facilitate the gathering, processing, disseminating and sharing of intelligence on national and international terrorism. In addition thereto, a Memorandum was signed on 24 September 2003, creating the Task Force for the Security of Critical Infrastructure (TFSCI). The TFSCI aims to secure the country's vital infrastructures, installations and public places against terrorist attacks.

Enclosed, as Annex B, is a copy of A.O. 68.

c. *Executive Order No. 277 dated 30 January 2004*

This Order created the Office of Transportation Security under the Department of Transportation and Communications (DOTC) in response to the findings of the International Civil Aviation Organization (ICAO) to have a singular and unilateral authority to implement and enforce civil aviation security programs in the country, and for the effective implementation of the ISPS Code and other maritime security concerns.

Enclosed, as Annex C, is a copy of E.O. 277.

d. Anti-Money Laundering Council (AMLC)

Pursuant to UNSC Resolution No. 1373 and other relevant UNSC resolutions, the Philippine Government created the Anti-Money Laundering Council (AMLC). Under Republic Act No. 9160, herein attached as Annex D, AMLC's main functions are:

- Serves as the financial intelligence unit (FIU) of the Philippine Government
- Implements the Anti-Money Laundering Act of 2001 (AMLA)
- Receives and analyzes covered and suspicious transaction reports
- Investigates/files/prosecutes money laundering cases
- Imposes administrative sanctions for the violation of laws, rules, regulations, orders and resolutions
- Shares information with/extends assistance to other government agencies, both local and foreign, including FIU
- Causes the freeze/forfeiture of criminal proceeds including terrorist funds and property
- Conducts nationwide trainings, seminars, workshops and lectures.

Accomplishments:

- Enactment of the Anti-Money Laundering Act of 2001 (AMLA), as amended;
  - Section 3(I) of the AMLA identifies acts of terrorism as unlawful activities/predicate crimes
  - Section 10 of the AMLA authorizes the Court of Appeals, upon application ex-parte by AMLC, to freeze any account based on probable cause that said account is related to a predicate crime
- Ratification of the International Convention for the Suppression of the Financing of Terrorism and its Protocols; and
- The AMLC has issued resolutions relating to the prevention and suppression of terrorist financing.
- Assistance to law enforcement authorities in apprehending and prosecuting violators of the AMLA, including members of terrorist groups.
- Coordination of Philippine cooperation with relevant UN and regional organizations, and other external partners.

Operative Paragraph 3

Decides also that all States shall take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical, or biological weapons and their means of delivery, including by establishing appropriate controls over related materials and to this end shall:

a. Develop and maintain appropriate effective measures to account for and secure such items in production, use, storage or transport

b. Develop and maintain appropriate effective physical protection measures;

c. Develop and maintain appropriate effective border controls and law enforcement efforts to detect, deter, prevent and combat, including through international cooperation when necessary, the illicit trafficking and brokering in such items in accordance with their national legal authorities and legislation and consistent with international law;

d. Establish, develop, review and maintain appropriate effective national export and trans-shipment controls over such items, including appropriate laws and regulations to control export, transit, trans-shipment and re-export and controls on providing funds and services related to such export and trans-shipment such as financing, and transporting that would contribute to proliferation, as well as establishing end-user controls; and establishing and enforcing appropriate criminal or civil penalties for violations of such export control laws and regulations.

Guided by the Code of Conduct on the Safety and Security of Radioactive Sources, the Philippine Nuclear Research Institute (PNRI) developed the Philippine Action Plan for the Safety and Security of Radioactive Materials. The Plan is currently implemented as an integral part of our national efforts to combat threats to security posed by Weapons of Mass Destruction (WMD).

The Philippines continues to place a high priority on the safety and security of radioactive sources. A Cabinet-level Task Force for the Security of Critical Infrastructure (TFSCI), as mentioned above, headed by the Presidential Adviser for Special Concerns, takes charge of securing highly-sensitive public utilities.

Due to the generally-heightened vigilance against terrorist activities, the PNRI, in collaboration with the Task Force, National Security agencies, and the Office of Civil Defense (OCD), is correspondingly revising the present National Radiological Emergency Preparedness and Response Plan (RADPLAN) to enable it to respond adequately to such threats.

The PNRI also implements a Technical Assistance project under the U.S. Department of Energy Radiological Threat Reduction Program. The project facilitates the provision of security upgrades on PNRI's critical radiation facilities and Category 1 and Category 2 sources in 23 hospitals throughout the Philippines.

Operative Paragraph 5

Decides that none of the obligations set forth in this resolution shall be interpreted so as to conflict with or alter the rights and obligations of State Parties to the Nuclear Non-Proliferation Treaty, the Chemical Weapons Convention and the Biological and Toxin Weapons Convention or alter the responsibilities of the International Atomic Energy Agency or the Organization for the Prohibition of Chemical Weapons

The Philippines is a State Party to the Nuclear Non-Proliferation Treaty, the Chemical Weapons Convention and the Biological and Toxin Weapons Convention.

The Philippines, through the National Authority for WMD Inspection and Control (NAWIC), enjoys a close working relationship with the International Atomic Energy Agency (IAEA), the Comprehensive Nuclear Test Ban Treaty Organization (CTBTO) and the Organization for the Prohibition of Chemical Weapons (OPCW).

I. ACTIVITIES WITH THE INTERNATIONAL ATOMIC ENERGY AGENCY (IAEA)

A. UPDATE ON THE IAEA SAFEGUARDS AGREEMENT WITH THE PHILIPPINES

The Philippine Nuclear Research Institute (PNRI) intends to convene in November, 2004 a seminar for relevant Philippine officials on the benefits of the IAEA Additional Protocol and to facilitate its ratification.

Pending the said ratification, IAEA safeguards inspectors had already initiated an environmental sampling from the site of PNRI isotope laboratories. The Philippines, likewise, had provided information to the IAEA regarding nuclear fuel cycle-related research and development activities that were carried out in the early 80's and had provided an update on the declaration submitted under INFCIRC/216.

The Philippines actively participates in the IAEA Illicit Trafficking Database, and as such, adheres to its related commitment of reporting and documenting incidents from which could potentially arise the illicit trafficking of nuclear materials.

B. CONVENTION ON PHYSICAL PROTECTION OF NUCLEAR MATERIALS (CPPNM)

The PNRI is supporting the move to amend the CPPNM in order to adress the issue of sabotage. In this connection, the PNRI had requested from IAEA the conduct of the following:

- Physical Protection Advisory Service (IPPAS) mission – to evaluate the physical protection condition and requirements of the research reactor and the nuclear materials present therein and in other facilities with high security risk radioactive sources
- Design Basis Threat (DBT) Workshop – for security threat assessment.

C. JOINT CONVENTION ON THE SAFETY OF SPENT FUEL AND RADIOACTIVE WASTE MANAGEMENT

The Philippines is pleased to receive an IAEA Mission in January, 2005 that will present more information on the Joint Convention on the Safety of Spent Fuel and Radioactive Waste Management and which would hopefully expedite the ratification process.

D. SAFETY OF TRANSPORT OF RADIOACTIVE MATERIAL

The Philippines had co-sponsored the relevant General Conference resolutions on Safety of Transport of Radioactive Material, considering that the Philippines is an archipelagic state and is interested in advancing dialogue between shipping states and coastal states.

The Philippines had adopted the IAEA Safety Standard on the Transport of Radioactive Material, TS-R-1. Consequently, PNRI formulated and approved the Code of PNRI Regulations (CPR)-Part 4, on the Safe Transport of Radioactive Material, to conform with the said IAEA Safety Standard. Consultations with the relevant agencies in the transport sector have resulted in enhanced cooperation among these agencies in the implementation of the Code.

II. ACTIVITIES WITH THE COMPREHENSIVE NUCLEAR TEST BAN TREATY ORGANIZATION (CTBTO)

Establishment of International Monitoring System in the Philippines

The Philippines became a Member State Signatory to the Comprehensive Nuclear Test Ban Treaty on 24 September 1996. The ratification of the Treaty by the Philippine Senate on 23 Febraury 2001 imposes legal responsibility on the government to implement its obligation, that is, to establish IMS stations in the Philippines, namely: the National Data Center (N137), Radionuclide Station (RN52) and two auxiliary seismic stations (AS79 in Davao and AS80 in Tagaytay). The Facility Agreement was signed on 14 April 2003, which paved the way for application of the Privileges and Immunities of the UN in the installation of the infrastructure for RN52 in Tanay, Rizal. The Agreement entered into force on 08 January 2004.

The PNRI is designated as the National Authority for CTBTO. Its function includes establishment of RN52 and N137 stations and coordination with the managers of the auxiliary seismic stations in the operation of the latter facilities. It also coordinates

attendance to meetings and participation at training courses of officers and staff of the various agencies involved in the establishment, operations and maintenance of the CTBTO stations. PNRI provides assistance to the CTBTO Global Communications Infrastructure (GCI) and its telecommunications contractor presently handled by HNS of U.K. for the application from the National Telecommunications Commission (NTC) of the Permit to Purchase and the annual License to Operate the VSAT antenna for all CTBTO stations.

National Data Center (N137)

The N137 station located within the PNRI functions as the center for data, services and product retrieval from CTBTO for all three IMS stations. Communication through VSAT antenna is possible between CTBTO and each of these stations. Requests for information from the IMS stations are forwarded by CTBTO-IDC to N137 for dissemination to the requesting station. Station Managers agree to the equal sharing of the daily allocation of 100Mbytes of data requested from CTBTO.

Auxiliary Seismic Stations (AS79 and AS80)

Two auxiliary seismic stations were established in 2002. The operation of AS80 in Tagaytay, Cavite and AS79 in Matina Hills, Davao are under the management of the Philippine Institute of Volcanology and Seismology (PHILVOLCS) and the Manila Observatory, respectively. AS80, co-located with the seismic station of PHILVOLCS at Tagaytay, has been upgraded with CTBTO seismic instruments and had undergone a 6-month testing period before it became a CTBTO-certified auxiliary seismic station. AS79 is co-located with the IRIS Seismic Station in Matina Hills, Davao. VSAT antennas were installed in both stations. Both stations are now operational and can send real time and historical data upon request from the CTBTO via the VSAT antenna system.

Radionuclide Station (RN52)

PNRI is designated to establish and manage the radionuclide station RN52. On 8 April 2003, the CTBTO-PTS approved the alternate RN52 site in Tanay, Rizal, after the Final Site Survey report submitted in connection with the proposed site indicated compliance with the CTBTO Terms of Reference for both meteorological and radiological conditions concomitant with a radionuclide monitoring station.

The approved station is co-located with the Philippne Atmospheric, Geophysical and Astronomical Services Administration (PAGASA) Weather and Radar Station in Tanay, Rizal. A Memorandum of Agreement was signed between PNRI and PAGASA, enabling the free use of a permanent site for the RN52 station within the PAGASA Weather Station.

Scientific Solution, Inc. was awarded the CTBTO Contract to install the infrastructure for RN52 at Tanay, Rizal. Installation of RN52 is expected to be completed within the first quarter of 2005. PNRI will operate and maintain the station with the collaboration of PAGASA.

III. ACTIVITIES WITH THE ORGANIZATION FOR THE PROHIBITION OF CHEMICAL WEAPONS

The Philippine National Authority at present is ad-hoc in nature and is headed by the Department Foreign Affairs. The members of the ad-hoc National Authority are the Department of Environment and Natural Resources, the Department of Agriculture, the Department of Agriculture, the Department of National Defense/Armed Forces of the Philippines, the Department of Trade and Industry, the Department of Finance, the Department of Health, the Department of Science and Technology, the Department of Interior and Local Government/Philippine National Police and the Department of Justice. Non-governmental entities such as the Crop Protection Association of the Philippines, the Chemical Industries Association of the Philippines and the members of the academic community are also considered members of the National Authority.

Submission of Declarations

The Philippines has already submitted an Initial Declaration to the Organization for the Prohibition of Chemical Weapons in The Hague in accordance with Article III of the Chemical Weapons Convention, to wit:

a) With respect to chemical weapons, the Philippines does not possess chemical weapons in any place under its jurisdiction and control;

b) With respect to abandoned chemical weapons, the Philippines does not possess old and abandoned chemical weapons;

c) With respect to the chemical weapons production facilities and other facilities, the Philippines does not maintain chemical weapons production facilities and other facilities.

Adoption of National Implementation Measures

In terms of national legislation, the Office of United Nations and Other International Organizations is currently in the process of consulting other government agencies and non-governmental entities concerning a draft Executive Order to amend R.A.6969 entitled "An Act to Control Toxic Substances and Hazardous and Nuclear Wastes, Providing Penalties Thereof, and for other Purposes."

Operative Paragraph 6

Recognizes the utility in implementing this resolution of effective national control lists and calls upon all Member States, when necessary, to pursue at the earliest opportunity the development of such lists

The Philippine government continues to adhere to all regional and international conventions and initiatives against terrorism and participates in all endeavors designed to strengthen cooperation at various levels in order to prevent and neutralize terrorist acts.

At present, the Philippine Congress is now deliberating on the consolidated Anti-Terrorism Bill ("An Act Defining Terrorism, Providing Penalties Therefor and For Other Purposes").

While the Philippines has not yet enacted a comprehensive counter-terrorism/terrorist financing law, it is still able to take action on the challenges posed by the threat/act of terrorism under its established laws and other related regulations. To cite a few concrete actions, the following personalities have been convicted and were being investigated regarding their connections with the Jemaah Islamiyah and Al-Qaeda Groups:

1. Fathur Rohman al Ghozi, Indonesian national was arrested on January 15, 2002 and was convicted on April 18, 2002 for illegal possession of explosives under Sec. 3 of PD 1866 and was sentenced with 12 years' imprisonment (However, he had escaped from detention on 04 July 2003, and was killed in October 2003)

2. Agus Dwikarna, Indonesian national, was arrested in Ninoy Aquino International Airport for illegal possession of explosives on March 13, 2002 and was convicted by the Pasay City Regional Trial Court Branch 17 on July 12, 2002.

3. On 13 August 2004, 17 Abu Sayyaf Group (ASG) members involved in the Dos Palmas Resort kidnapping and Lamitan siege were sentenced to death by a court in Basilan.

Following are the established import/export control and regulations in the Philippines:

a. Republic Act 2067

- Control of the procurement of radioactive material and instruments for commercial, industrial, medical, biological agricultural or other peaceful purposes through licensing and other established regulations.

Enclosed, as Annex E, is a copy of RA 2067.

b. Presidential Decree No. 930

- Adoption of a simplified export procedures and documentation for Philippine exportable products through regular inspection and issuance of commodity clearances by concerned government commodity agencies.

Enclosed, as Annex F, is a copy of PD 930.

c. Republic Act 5207

- Control of the Production and use of Atomic Energy Facilities and Atomic Energy Materials through licensing and regulation of the Import and Export of the same.

Enclosed, as Annex G, is a copy of RA 5207.

d. Administrative Order No. 1 (Series of 2004)

- The Philippine Nuclear Research Institute (PNRI) has been authorized to establish rules and regulations for the protection of the health and safety of radiation workers and of the general public, with a view that a categorization system is necessary so that the controls that are applied to the sources are commensurate with the radiological risk.

Enclosed, as Annex H, is a copy of A.O. 1

e. Nuclear Wastes and Hazardous Substances (Republic Act 6969)

- Control of the importation, manufacture, storage, processing, handling, transportation, service sales, distribution, use, and disposal of all unregulated chemical substances and mixtures in the Philipppines including the entry and transit as well as the keeping or disposal of hazardous and nuclear wastes into the country for whatever purpose.

Enclosed, as Annex I, is a copy of RA 6969.

f. Presidential Decree 1866 as amended by Republic 8294

- Control of the illegal and unlawful possession, manufacture, dealing in, acquisition or disposition of firearms, ammunition and explosives, through, among others, the licensing and regulation of the import and export of these items.

Enclosed, as Annex J, is a copy of RA 8294

g. Executive Order No. 522

- Control and supervision of the importation, sale and possession of chemical used as ingredients in the manufacture of explosives and for other purposes.

Enclosed, as Annex K, is a copy of E.O. 522

h. Republic Act No. 9165

- Known as the "Comprehensive Dangerous Drugs Act of 2002". With the aid of this act the government pursues an intensive and unrelenting campaign against the trafficking and use of dangerous drugs and other similar substances through an integrated system of planning, implementation and enforcement of anti-drug abuse policies, programs and projects.

Enclosed, as Annex L, is a copy of RA 9165

i. Bureau of Customs / Philippine National Police Control Regulations

- Control and monitoring of export-import and other international exit and entry of aforestated items in Philippine airports, seaports and other international points of exit and entry.

Operative Paragraph 7

Recognizes that some States may require assistance in implementing the provisions of this resolution within their territories and invites States in a position to do so to offer assistance as appropriate in response to specific requests to the States lacking the legal and regulatory infrastructure, implementation experience and/or resources for fulfilling the above provisions

The Philippines is in the forefront of the fight against terrorism not only in the region but globally, there is a need for the Philippines to develop a more responsive export control as well as allowing us to comply, in the fullest way possible, to our obligations under international treaties and conventions.

To cite specific areas where the Philippines needs assistance in the implementation of the provisions of UNSCR 1540 are:

1. Trainings for the Philippines's first responders

** Since the Philippines is in the process of formalizing the chemical, biological and nuclear emergency and consequence management response organization, as part of our three-tiered defense plan against terrorism, to better prepare our emergency response teams, we would like to seek assistance through UNSCR 1540 on possible trainings that our first responders could avail themselves of.

Some of the trainings could be in the following areas:

a. National protection training course
b. Chief Instreuctor Training Programme (CITPRO)
c. Live agent training
d. Medical Defense against Chemical Weapons
e. SEF-TRAD international course
f. Civil Protection course
g. International protection course

2. Border control – through the provision of training and appropriate instruments for the detection of radioactive and nuclear materials. This would also be important in export control.

** In this connection, it may be informed that a Seminar on Border Monitoring is tentatively planned in the Philippines on April 2005.

3. Physical protection of the Research Reactor, PRR-1

4. Enhancement and upgrade of container and cargo security in several seaports

5. Drafting of appropriate laws governing border monitoring

Operative Paragraph 8

While it is not a member of any of the existing international export control regimes, the Philippines is a signatory to the following international agreements:

a. Nuclear Non-Proliferation Treaty (18 July 1968);
b. The Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction (21 June 1972);

c. Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or To Have Indiscriminate Effects (15 May 1981);
d. The Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (13 January 1993);
e. Treaty on the Southeast Asia Nuclear Weapon-Free Zone (15 December 1995)
f. The Comprehensive Nuclear Test-Ban Treaty (24 September 1996);
g. Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction (03 December 1997); and
h. The Hague Code of Conduct Against Ballistic Missile Proliferation (HCOC) (25 November 2002)

PLAN OF ACTION

The Philippines, through the Department of Foreign Affairs, in its capacity as interim chairman of the inter-agency National Authority for WMD Inspection and Control (NAWIC), is presently coordinating with relevant government agencies for the establishment of a comprehensive Philippine WMD Export Control Regime, and plans to have the regime in place by early 2006 with a WMD Executive Order and later a Republic Act (national law). Coordination is already taking place with the Bureau of Customs and Philippine National Police for the monitoring of WMD element flows.